

LOUISIANA PUBLIC SERVICE COMMISSION

ORDER NO. T-35574

LOUISIANA PUBLIC SERVICE COMMISSION

VS.

ESS TRANSPORTATION, INC. (DAMASCUS, ARKANSAS)

Docket No. T-35574, In Re: Alleged violation of La. R.S. 45:161 through 180.1, by operating beyond the scope of authority in Common Carrier Certificate Number 8149 on three (3) counts allegedly occurring on or about May 16, 2019 through May 22, 2019.

(Decided at the September 16, 2020 Business and Executive Session)

I. Background

The Louisiana Public Service Commission (“LPSC” or “Commission”) Staff issued a citation to ESS Transportation, Inc. (Damascus, Arkansas) (“ESS”) for three counts of operating beyond the scope of authority in Common Carrier Certificate Number 8149.

Staff conducted an audit of E&P Waste Manifests maintained by the Louisiana Department of Natural Resources, Office of Conservation from the month of May 2019. As a result of this audit, Staff found evidence that ESS violated La. R.S. 45:161 through 180.1 by hauling non-hazardous oilfield waste without authority. Specifically, Staff discovered three UIC-28 manifests which showed that ESS had hauled rainwater and pipeline water/waste for disposal on May 16, 2019 and May 22, 2019.

II. Jurisdiction

The Commission exercises jurisdiction over common carriers and public utilities in Louisiana pursuant to Article IV, Section 21(B) of the Louisiana Constitution, which states:

“The commission shall regulate all common carriers and public utilities and have such other regulatory authority as provided by law. It shall adopt and enforce reasonable rules, regulations, and procedures necessary for the discharge of its duties, and shall have other powers and perform other duties as provided by law.”

Further, La R.S. 45:171(A) provides that “[n]o person shall violate or knowingly assist in the violation of any of the provisions of this Chapter or any of the rules, regulations, orders, or decrees of the commission...”

III. Stipulation

In response to the citation, ESS signed an Affidavit and Stipulation admitting to the violation and agreed to a fine of \$2,000.00 per count, with \$1,000.00 of the fine per count suspended conditioned on ESS not being found guilty, entering a plea of guilty, or entering a plea of no contest to any additional violations for a period of one year. ESS also agreed to remit to the

Commission the fine of \$1,000.00 per count, together with a \$25.00 citation fee, for a total fine of \$3,025.00, paid by certified funds, on or before July 31, 2020.

ESS also agreed in the Affidavit and Stipulation to implement changes to its corporate training policy to provide that all employees will receive an orientation on LPSC-related statutes, rules and orders upon employment, and thereafter on an annual basis; and,

IV. Commission Action

On motion of Commissioner Skrmetta, seconded by Chairman Francis, with Commissioner Campbell temporarily absent, and Vice Chairman Greene and Commissioner Boissiere concurring, the Commission voted to assert its original and primary jurisdiction and take the matter up pursuant to Rule 57.

On motion of Chairman Francis, seconded by Commissioner Skrmetta, with Commissioner Campbell temporarily absent, and Vice Chairman Greene and Commissioner Boissiere concurring, the Commission voted to approve the Affidavit and Stipulation executed by the Carrier.

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IT IS THEREFORE ORDERED THAT:

1. The Affidavit and Stipulation executed July 9, 2020, for fines and fees totaling \$3,025.00 is accepted; and,
2. This Order is effective immediately.

**BY ORDER OF THE COMMISSION
BATON ROUGE, LOUISIANA**

October 8, 2020

/S/ MIKE FRANCIS

**DISTRICT IV
CHAIRMAN MIKE FRANCIS**

/S/ CRAIG GREENE

**DISTRICT II
VICE CHAIRMAN CRAIG GREENE**

/S/ FOSTER L. CAMPBELL

**DISTRICT V
COMMISSIONER FOSTER L. CAMPBELL**


**BRANDON M. FREY
SECRETARY**

/S/ LAMBERT C. BOISSIERE, III

**DISTRICT III
COMMISSIONER LAMBERT C. BOISSIERE, III**

/S/ ERIC F. SKRMETTA

**DISTRICT I
COMMISSIONER ERIC F. SKRMETTA**